



# STATE BOARD OF EQUALIZATION



## Taxpayers' Rights Advocate's **2022-23 ANNUAL REPORT**

Property Taxes and Alcoholic Beverage Tax



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# LETTER FROM THE TAXPAYERS' RIGHTS ADVOCATE

February 2024

Ms. Yvette M. Stowers  
Executive Director



Dear Ms. Stowers:

I am pleased to present to you the *Taxpayers' Rights Advocate's Property Taxes and Alcoholic Beverage Tax Annual Report* for fiscal year 2022-23. This report:

- Highlights accomplishments of the Taxpayers' Rights Advocate Office during the past year;
- Contains examples of cases illustrating the services our office provides to assist taxpayers;
- Identifies issues that our office worked on to resolve;
- Describes our office's involvement in educational projects to help taxpayers; and
- Identifies bill of rights provisions for tax programs under our agency's jurisdiction.

The Taxpayers' Rights Advocate Office is committed to promoting outreach and education to help local taxpayers with understanding property tax laws, and to increase their awareness of property tax savings that may be available to them. As part of this commitment, the Taxpayers' Rights Advocate Office publishes educational materials written in simple, non-technical terms, referred to as *Information Sheets*. The Information Sheet series covers various exclusion and exemption topics that may result in property tax savings. *Information Sheets* are available to the public on the BOE website.

Respectfully submitted,

*Lisa Thompson*

Lisa Thompson  
Taxpayers' Rights Advocate  
State Board of Equalization

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# TAXPAYERS' RIGHTS ADVOCATE OFFICE

## VISION

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To be a trusted voice of reason and fairness when resolving issues between taxpayers<sup>1</sup> and the government.

## MISSION

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To positively affect the lives of taxpayers by protecting their rights to proper assessment and collection of property taxes throughout the state, and to protect the rights of alcoholic beverage tax taxpayers.

## GOALS

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- To ensure that taxpayers coming to the Taxpayers' Rights Advocate Office with problems that have not been resolved through normal channels have their concerns promptly and fairly addressed.
- To identify laws, policies, and procedures that present barriers or undue burdens to taxpayers attempting to comply with the tax laws; to bring those issues to the attention of State Board of Equalization (BOE) and county management; and to work cooperatively on making changes to laws, policies, and procedures where necessary.
- To meet taxpayer needs by opening appropriate channels of communication, providing education, and finding solutions to unresolved problems.
- To promote BOE staff's commitment to honor and safeguard the rights of taxpayers.
- To review property tax matters from the viewpoint of the taxpayer and identify needed changes to procedures on the distribution of information on property tax matters between and among the BOE, County Assessors, and taxpayers, or the need for development and implementation of education and informational programs or materials in such area.

<sup>1</sup> The term "taxpayers" in this publication means payers of property taxes and the alcoholic beverage tax.

## PROFILE

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### Taxpayers' Bills of Rights Mandate a Taxpayers' Rights Advocate

In January 1989, the *Harris-Katz California Taxpayers' Bill of Rights* was placed into law to ensure that the rights, privacy, and property of California taxpayers were adequately protected in the assessment and collection of sales and use taxes; programs which were administered by the BOE until July 1, 2017.

In January 1993, the Special Taxes Bill of Rights expanded the Bill of Rights statutory authority to special tax and fee programs administered by the BOE. As of July 1, 2017, the BOE remains responsible for the alcoholic beverage tax program, which is one of the programs affected by these statutory provisions.

The *Morgan Property Taxpayers' Bill of Rights* was placed into law in January 1994, governing the assessment, audit, and collection of property taxes, with the goal of ensuring that millions of taxpayers receive fair and uniform treatment under the property tax laws.

Each Taxpayers' Bill of Rights provides for a Taxpayers' Rights Advocate (Advocate). For instance, the designation of an Advocate for property taxes is found beginning with Revenue and Taxation Code (R&TC) section 5904 (see [Appendix 1](#)) and found in section 3246.1 for the alcoholic beverage tax (see [Appendix 2](#)).

### Legal Responsibilities of the Taxpayers' Rights Advocate

The responsibilities of the Advocate are specifically delineated in the law. Consistent with the Taxpayers' Bills of Rights, the Advocate:

- Facilitates resolution of taxpayer complaints or problems regarding property taxes and ensures prompt corrections when errors have occurred in property tax assessments;
- Monitors programs administered by the BOE and property tax programs administered by counties for compliance with the Taxpayers' Bills of Rights and recommends new procedures or revisions to existing policy to ensure fair and equitable treatment of taxpayers;
- Works with BOE staff to ensure that taxpayer educational materials are clear and understandable; and
- Coordinates the statutory Taxpayers' Bill of Rights hearing for property taxes and the alcoholic beverage tax to give taxpayers, industry representatives, assessors, and other local agencies the opportunity to express their concerns, suggestions, and comments to the Board Members.



## **How the Taxpayers' Rights Advocate Office Fulfills Its Legal Responsibilities**

### ***Facilitates resolution of taxpayer complaints or problems***

The Taxpayers' Rights Advocate Office (TRA Office) generally assists taxpayers who:

- Have been unable to resolve a matter through normal channels;
- Want information regarding BOE and county procedures;
- Claim their rights have been violated in the assessment or collection of property taxes or the alcohol beverage tax; or
- Seek confirmation that staff action is lawful and consistent with approved policy.

The TRA Office provides assistance to taxpayers by facilitating better communication between the taxpayer and staff of County Assessors or the BOE, which helps eliminate potential misunderstandings. Taxpayers are provided information on policies and procedures so they can be better prepared to discuss and resolve their issues with staff.

### ***Monitors programs and recommends policy or procedural changes***

In cases where the law, policy, or procedures do not currently allow any change to the staff's actions, but a change to the law, policy, or procedure appears warranted, the TRA Office works toward clarification or modification. Several of the past recommendations for policy or procedural changes, suggestions for enhancements to staff training materials, and proposals for legislative change have resulted from direct contacts with taxpayers.

The TRA Office routinely takes part in ongoing policy discussions, adding the perspective of taxpayers' rights, by participating in BOE interested parties meetings and discussions with department management.

### ***Ensures information and guidance provided is easy to understand***

The TRA Office suggests new legislation and routinely reviews proposed revisions to informational and educational materials to ensure they are easy to understand. The TRA Office assists in providing information to the public through taxpayer *Information Sheets* on various topics, which are posted on the BOE website.

### ***Coordinates Taxpayers' Bill of Rights hearings***

The TRA Office is responsible for making arrangements, in cooperation with the Board Proceedings Division, for a yearly bill of rights hearing regarding property taxes and the alcoholic beverage tax. After the hearing, the TRA Office works with appropriate areas of the BOE or county agencies to address issues and concerns conveyed to Board Members by presenters and provides follow-up reports to the Members when appropriate. The TRA Office also prepares responses outlining how presenters' concerns were addressed and posts this information on the BOE website.

## Cooperation with Advocates of Other Government Agencies

Meetings are held with the Taxpayer Advocates from other state agencies and the Internal Revenue Service to discuss common problems and systemic issues facing California's taxpayers. In attendance are Advocates from the BOE, California Department of Tax and Fee Administration (CDTFA), Employment Development Department (EDD), Franchise Tax Board (FTB), Internal Revenue Service (IRS), Governor's Office of Business and Economic Development (GO-Biz) and Ombudsperson from the Office of Tax Appeals (OTA). These meetings, along with close working relationships among the advocate offices, have allowed all the tax agencies serving California taxpayers to have a better understanding of taxpayer issues. California taxpayers also benefit from the TRA Office's ongoing relationships with the other California Advocates due to the enhanced opportunities for outreach to community groups provided by contacts developed by all the Advocates.

## Differences Between Implementation of the Property Taxpayers' Bills of Rights and California Taxpayers' Bill of Rights

The major difference for the TRA Office between the implementation of the Property Taxpayers' Bill of Rights and the California Taxpayers' Bill of Rights is in the resolution of taxpayer problems or complaints, as outlined below.

### ***Property Taxes***

The TRA Office primarily resolves property tax cases directly with the County Assessors, Tax Collectors, and Audit-Controllers, (all elected officials), as well as Clerks of the Assessment Appeal Boards. Additionally, the TRA Office works with the BOE's Legal Department and the County-Assessed Properties Division when required. The TRA Office also works cooperatively with the California Assessors' Association on statewide issues. Although the TRA Office does not have the legal authority to overturn local actions, TRA Office staff are generally successful in soliciting cooperation and ensuring that taxpayers receive proper treatment under the law. In cases where there is no procedural or legal authority to remedy a problem—and a change does appear justified—the TRA Office may recommend specific policy, procedural, and/or legislative changes.

### ***Alcoholic Beverage Tax***

In contrast to the way the TRA Office resolves property tax issues, alcoholic beverage tax issues are primarily resolved directly with BOE staff and the TRA Office of CDTFA. If complaints arise, the BOE's TRA Office coordinates with CDTFA's TRA Office in resolving the complaint since CDTFA collects the alcoholic beverage tax under an agreement with the BOE.

## PUBLIC OUTREACH

The public becomes aware of the services offered by our office in many ways. For example, information is included about the TRA Office in many BOE publications, is accessible on Internet sites, and is provided by TRA Office staff of other state agencies and by staff of local county agencies involved in California's property tax system. Additionally, the public is notified of the services through newsletters sent to constituents from our agency's elected Board Members. The TRA Office is regularly highlighted on BOE's social media channels through our agency's Communications Department.

### Publications

- [Publication 145](#), *California Taxpayer Advocates—We're Here for You*, provides contact information for the Advocates from the BOE, CDTFA, EDD, FTB, IRS, GO-Biz, and OTA. Publication 145 is posted on the websites of the participating state agencies and the California Tax Service Center website at [www.taxes.ca.gov](http://www.taxes.ca.gov).
- BOE publications reference the TRA Office's contact information.
- The TRA Office's contact information is available on all [Information Sheet](#) publications by the BOE's TRA Office.
- Contact information for the TRA Office can be found at the back of this *Annual Report*.

### Internet and Social Media Posts

- The California Tax Service Center website at [www.taxes.ca.gov](http://www.taxes.ca.gov), contains links to all California Taxpayer Advocates' webpages and publication 145, *California Taxpayer Advocates—We're Here for You*, by selecting *Contact Us*, then the *Your Rights* link.
- The TRA Office's webpage at [www.boe.ca.gov/tra](http://www.boe.ca.gov/tra), can be accessed from any page of the BOE's website. The webpage contains phone and mailing address contact information for the TRA Office and provides a means for taxpayers to communicate with the TRA Office directly via email through a web intake form.
- The BOE Chief Communications Officer posts information on social media informing taxpayers about the services of the TRA Office.

### Public Events and Local Agencies

The public learns about the services of the TRA Office at the following types of events and from local agencies:

- Monthly Board Meetings: Information about the TRA Office and taxpayers' rights are described at the annual Taxpayers' Bill of Rights hearing at a public meeting of the elected State Board of Equalization (Board), and the TRA's current *Annual Report* is provided for the hearing before the Board.
- Presentations made by County Assessors and their staff at seminars, conferences, or at meetings of individual business groups.
- Speaking engagements conducted by our agency's elected Board Members.
- Referrals from County Assessors' offices and County Tax Collectors' offices throughout the state.

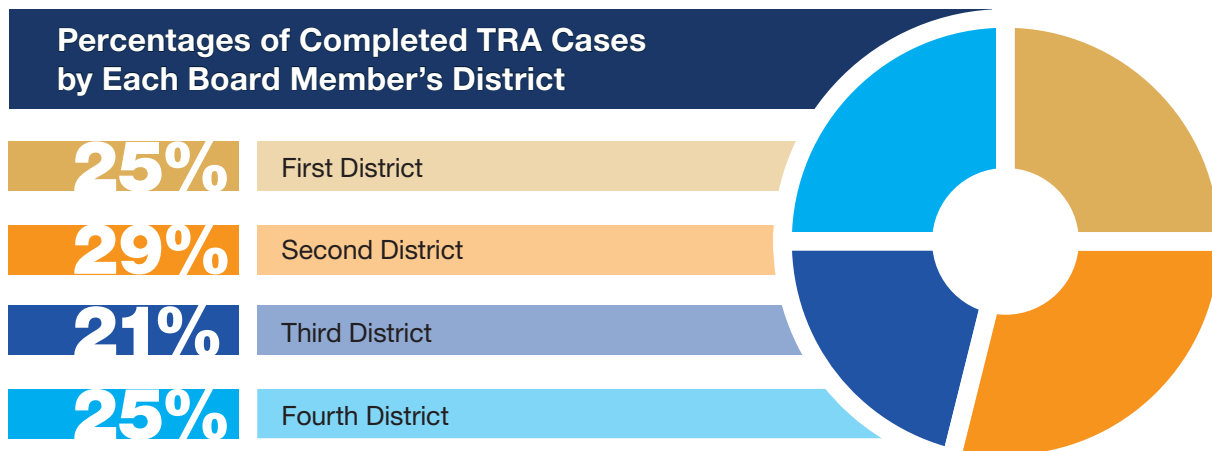


# TAXPAYER CONTACTS WITH TRA OFFICE

## CONTACTS AND NUMBER OF CASES

The TRA Office receives contacts from taxpayers seeking assistance with problems they have with the assessment or collection of property taxes on their property, or in some cases, with problems they have concerning another program our agency is responsible for administering (the alcoholic beverage tax or tax on insurers). Additionally, the TRA Office receives contacts from taxpayers who have questions or concerns that need to be addressed by other government agencies not involved with the assessment or collection of property taxes. The TRA Office assists such taxpayers by directing the requester to the appropriate state or county agency that can assist them.

The majority of contacts the TRA Office receives pertain to property taxes. The TRA Office sets up a case when a taxpayer contacts our office seeking assistance with a property tax assessment or collection problem, or a problem with the alcoholic beverage tax. For fiscal year 2022-23, the TRA Office completed work on 310 cases, all relating to property taxes. The cases were from taxpayers located in districts represented by all four elected State Board of Equalization members.



## PROPERTY TAX CASE RESOLUTION

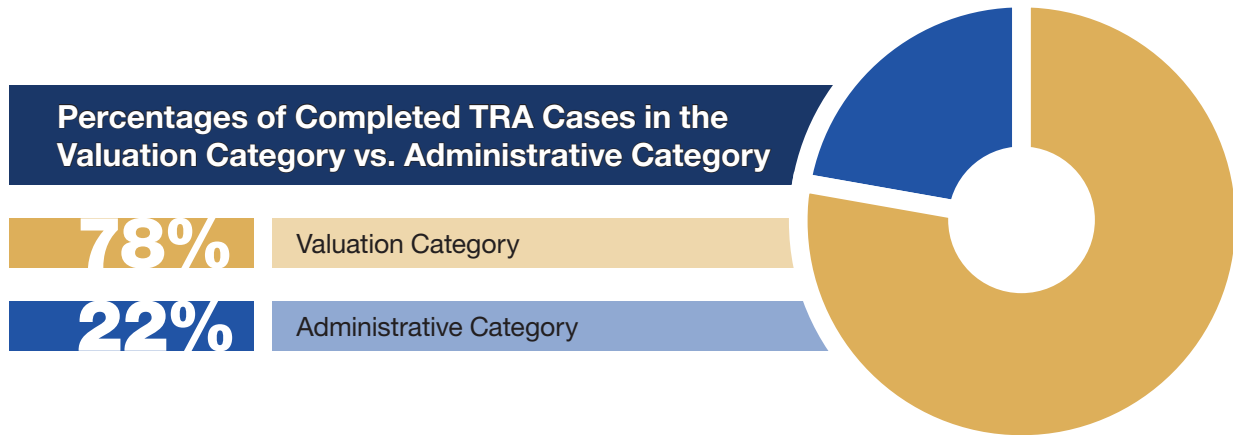
Property owners throughout the state contact the TRA Office for assistance and information. Although primary contact is with individual taxpayers, cases also originate from contact with tax agents, attorneys, and government officials such as County Assessors, Tax Collectors, Audit-Controllers, Board Members, and Legislators.

The various issues represented by the cases require that technical advisors in the TRA Office have broad knowledge and experience in property assessment and taxation. Since the technical advisors have a property appraisal background with experience in a county Assessor's office and/or at the BOE, they can determine how an issue can be resolved.

The majority of property tax cases are resolved in conjunction with local County Assessors' offices and Tax Collectors' offices. Depending on the nature of the problem, multiple offices can be involved in the resolution of taxpayers' cases.

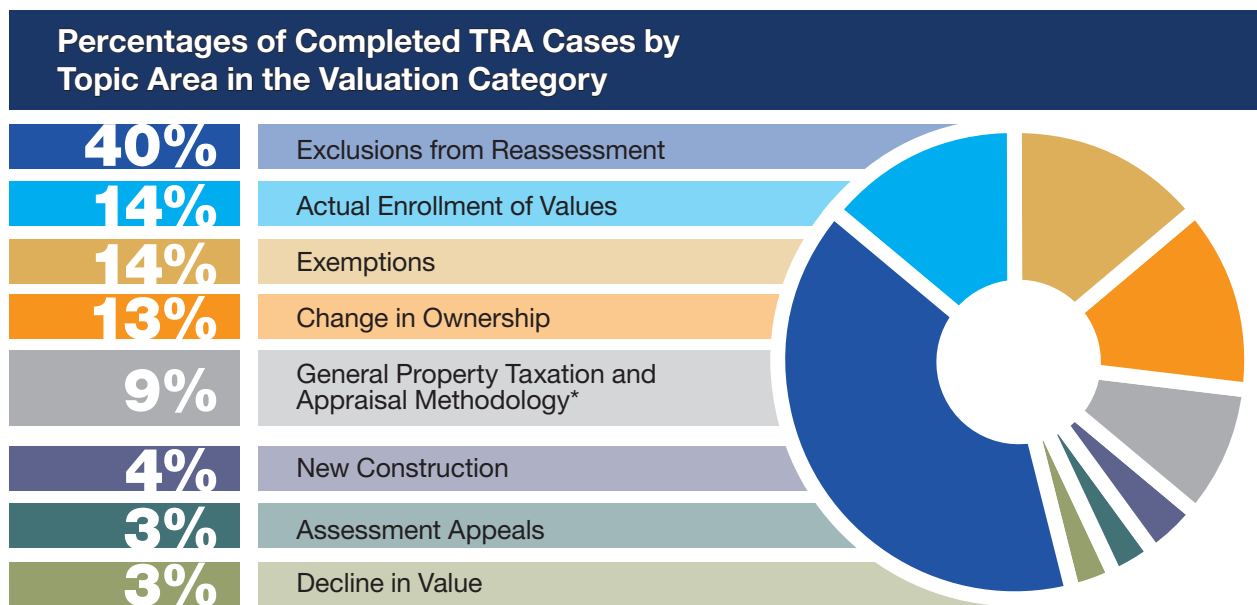
### Types of cases

In fiscal year 2022-23, the majority of property tax cases were in the valuation category, which includes topics such as changes in ownership, decline in value or value reductions, appraisal methodology, exclusions, exemptions, assessment appeals, new construction, general property tax information and definitions, and actual enrollment of values. The remaining cases were in the administrative category, which includes topics such as creating and mailing tax bills, refunds, and penalties. Each case may contain various issues that prompted the taxpayer to contact the TRA Office.

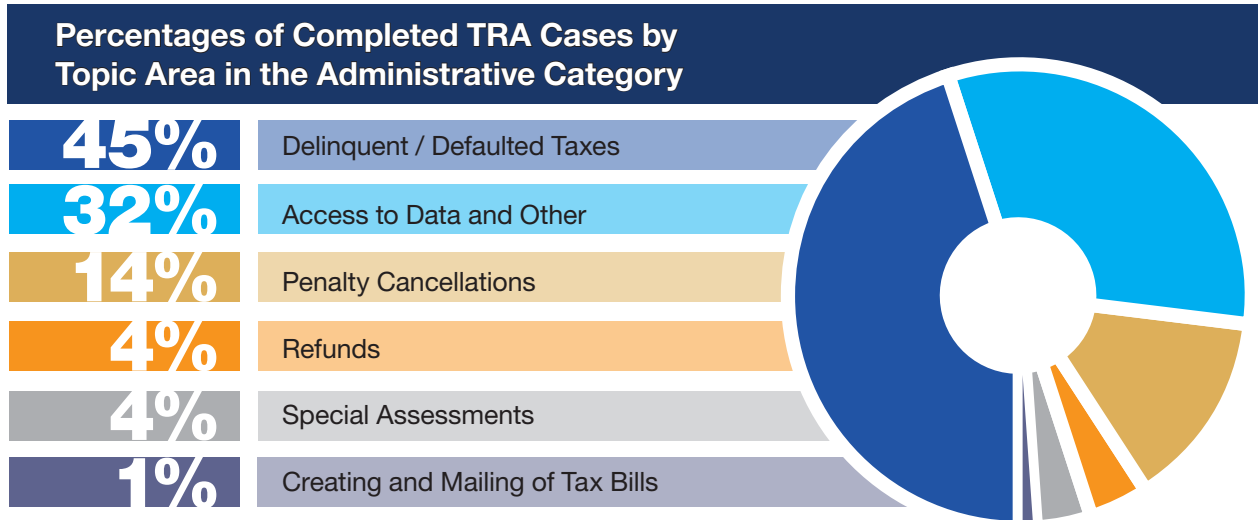


### About the Case Statistics

The TRA Office completed work on 310 cases in fiscal year 2022-23; 67 were in the administrative category, and 243 were in the valuation category. The TRA Office tracked the number of cases by topic area within each valuation category and administrative category.



\*Actual breakdown is 8.0% for General Property Taxation and 1% for Appraisal Methodology.



***How taxpayers were referred to the TRA Office***

Staff of County Assessor’s offices throughout the state refer taxpayers to the TRA Office for assistance. Board Member offices, real estate professionals, and the BOE website are also sources of referrals.

Outreach efforts are also made through the TRA Office by sending posters and flyers to County Assessors, Tax Collectors, and Clerks of the Board in each county to display posters and flyers in public areas of their offices for taxpayers to notify them about our agency’s annual Taxpayers’ Bill of Rights hearing, and services of the TRA Office. Our agency’s Communications Department also issues social media posts so taxpayers are aware of the TRA Office.

**Examples of Property Tax Cases**

The following cases illustrate how taxpayers’ issues are resolved by the TRA Office staff and indicate the range of services provided by the property tax technical advisors. Our role usually involves review and explanation of processes and methodologies of property tax assessments and property tax payment and collection, as well as facilitation of resolutions between taxpayers and county departments.

***Some intergenerational transfers are excluded from reassessment***

**Background.** A change in ownership of real property can trigger a reassessment of the property’s value, which causes an increase in property taxes. However, some property transfers may be excluded from reassessment. In some cases, a transfer between parents and children, or between grandparents and grandchildren may be excluded from reassessment under R&TC section 63.2 for transfers that occurred on or after February 16, 2021, pursuant to Proposition 19 or under prior law of R&TC section 63.1 for transfers that occurred prior to February 16, 2021, pursuant to Propositions 58 and 193.

**Issue.** A taxpayer inherited his mother’s home upon her passing. The mother was in a private care home for six months before her death, but she had lived in her own home for decades prior to her stay in the care home. The property received the homeowners’ exemption each year, including the year she died, and the home was not rented out as the mother was expected to return to her own home if she recovered. The taxpayer filed a claim for the parent/child exclusion under Proposition 19’s intergenerational exclusion and Revenue and Taxation Code (R&TC) section 63.2, but the taxpayer indicated the claim was not approved because his mother did not pass away in her house but was living at the care home, which was indicated as her place of death. The taxpayer contacted the TRA Office seeking assistance with approval of the exclusion since the property was reassessed to market value as of his mother’s death, which was a substantial increase, and the taxpayer had a property tax bill due reflecting the increased assessed value.

**Resolution.** The TRA Office spoke with the taxpayer about additional information that could be provided to the Assessor to substantiate that his mother’s home was her primary residence. We explained to the taxpayer that our agency had previous guidance and annotated legal opinions in support that a property could be considered an owner’s principal place of residence for the homeowners’ exemption even if the owner is confined to a convalescent home or hospital, as long as it was not rented to a third party. Additionally, we provided the taxpayer with a property tax law that defines a “primary residence.” The taxpayer provided the Assessor’s office and our office with documentation supporting qualification for exclusion. Our office then coordinated with the Assessor’s office and discussed resources that supports allowing the intergenerational transfer exclusion from reassessment in this taxpayer’s situation. The Assessor’s office reviewed the additional documents submitted by the taxpayer, along with the information provided by our office, and concluded that the intergenerational transfer exclusion could be granted. Additionally, once the Assessor granted the exclusion, the TRA Office confirmed that the new taxable value of the home was calculated correctly according to property tax law. Because the market value of the home the taxpayer inherited exceeded the value limit that can be transferred, which was the sum of factored base year value plus \$1,000,000, the TRA Office also helped the taxpayer understand that the factored base year value his mother had for the property was transferred to him, but the amount in excess of the certain dollar threshold was added at market value to arrive at the new taxable value in accordance with R&TC section 62.3. Substantial property tax savings occurred as a result of the granting of the exclusion.

**Summary—Services Provided.** The TRA Office’s understanding of exclusions permitted under the law and what qualifies for the homeowners’ exemption allows them to help taxpayers submit appropriate documents to the Assessor’s office to support qualification for exclusion to resolve their issues. Additionally, the TRA Office’s knowledge of the value test for the intergenerational exclusion for transfers between parents and children and method to determine the new taxable value of a property granted exclusion enables them to verify that the property’s new taxable value has been correctly calculated by an Assessor’s office.

### ***Some intergenerational transfers are excluded from reassessment prospectively***

**Issue.** A son transferred title of his home to his mother, and they filed a claim for the parent/child exclusion under Proposition 19’s intergenerational exclusion and R&TC section 63.2, but the taxpayer received a letter notifying her that the property was reassessed. The taxpayer had not filed the claim for exclusion or the homeowners’ exemption claim within one year of the transfer. The taxpayer contacted the TRA Office asking for assistance in resolving her matter because the property taxes on the reassessed value would be a financial burden.

**Resolution.** The TRA Office coordinated with the Assessor’s office, and it approved both the parent/child exclusion claim and the homeowners’ exemption claim. The TRA Office explained to the taxpayer that the intergenerational exclusion could be granted on a prospective basis, beginning with the year that the homeowners’ exemption claim was filed based on a provision in our agency’s Property Tax Rule 462.520. We helped the taxpayer understand that the law precluded the Assessor from granting the exclusion from the date of change in ownership, and she would be responsible for the property taxes based on the market value of the property from the transfer date until the year she filed the homeowners’ exemption claim. Our office further explained that although the parent/child exclusion claim was filed timely and she lived in the house as her primary residence within one year of the transfer date, in order to receive exclusion from reassessment as of the transfer date, the homeowners’ exemption claim would have needed to be filed within one year of the transfer.

**Summary—Services Provided.** The TRA Office’s understanding of statutory and regulatory provisions enables them to advise taxpayers about provisions that may result in qualification for exclusion. The TRA Offices’ understanding of exclusions from reassessment allows them to help taxpayers understand why the actions taken by a county Assessor’s office were in compliance with the law.

### ***Some people can transfer the base year value of their home to a replacement***

**Background.** A change in ownership of real property, which includes the purchase of a new home, can cause the amount of property taxes a person pays on their new home (replacement) to be substantially higher than the amount of property taxes paid on their previous home (original). However, there is an exclusion from reassessment available for persons age 55 and older under R&TC section 69.6 for transfers that occurred on or after April 1, 2021, as a result of the passage of Proposition 19, or under prior law of R&TC section 69.5 for transfers that occurred prior to April 1, 2021, pursuant to Proposition 60 or 90. In some cases, a transfer of base year value can be made from the original home to the replacement home, such that the taxable value of the new home is not based on its market value at time of purchase, but instead based on the lower taxable value from the original home, avoiding a property tax increase.

**Issue.** A taxpayer owned a multiunit dwelling consisting of two units, each having several stories or floors, located on one parcel in which he sold one-half of the duplex that was used as his primary residence and purchased a condominium as his replacement home. The taxpayer retained ownership of the other half of the duplex, which the taxpayer continues to rent out. A new base year value was established for the change in ownership on the unit sold, while the factored base year value attributable to the other unit was not affected. The taxpayer contacted the TRA Office for assistance because the Assessor's office denied the Proposition 19 base year value transfer on the basis that the original property, situated on one parcel, must be 100 percent sold.

**Resolution.** The TRA Office coordinated with the Assessor's office and provided information supporting the taxpayer's eligibility to transfer his base year value, the value which represented his half of the duplex used as his primary residence, to a replacement home. Generally, the appraisal unit is determined by people in the market and what they typically buy and sell and must reflect the unit most likely to be sold if the property were exposed to the open market. If the market is such that people can only afford to purchase half of a duplex and a demand for such units exists, as it did in this Bay Area city, then the Assessor should consider this type of transaction as one likely to occur between buyers and sellers.

Our office spoke with the Assessor's office about the taxpayer's situation indicating that although only a partial interest in the duplex property was sold, the taxpayer sold one entire unit (side) of the duplex. Our office provided the R&TC section and Property Tax resources that state, "each unit of a multiunit dwelling shall be considered a separate original property," and that in cases where each of two persons has an undivided one-half interest in a duplex and each owner lives in a separate side, each would be entitled to the homeowners' exemption. The Assessor's original premise that 100 percent of the property must be sold relates to a single-family residence where a partial interest of the property cannot be sold or purchased and qualify as an original or replacement property. The Assessor's office reconsidered qualification and granted the base year value transfer from the original home to the replacement home. The TRA Office also explained to the taxpayer that since the market value of his replacement home was greater than that of his original home's market value that he sold, and he purchased the replacement home prior to selling his original home, the difference in their market values is added to the original property's transferred factored base year value to arrive at the new taxable value of his new home.

**Summary—Services Provided.** The TRA Office's understanding of how base year value transfers are handled and how changes in ownership are reassessed allows them to help taxpayers understand the assessed value of their property for property tax purposes as determined by a county Assessor's office.



### ***Base year value transfers—factored base year value is transferred, not the property tax bill amount***

**Issue.** A taxpayer filed a claim to transfer his base year value from his primary residence to a replacement home that was located in another county. The market value of the replacement home was lower than the market value of his original property, but the taxpayer received a considerably higher property tax bill for his new home than what was on his prior home and did not understand why. The taxpayer contacted the TRA Office concerned that the Assessor had denied his base year value transfer request.

**Resolution.** The TRA Office reviewed the property tax bills of both the original home and the replacement home and confirmed with the Assessor's office that the base year value transfer was approved. The TRA Office analyzed the property tax bills of both properties to determine what charges were included on the tax bills. We explained to the taxpayer that the taxable value of his replacement home reflected the granting of the base year value transfer. However, the overall property tax rate on the replacement property was slightly higher due the various local bond indebtedness on his replacement, resulting in slightly higher property taxes in this area. Our office explained that the reason he was paying more in total for his replacement property, which almost doubled the amount owed on the property tax bill, were due to the direct levies and special assessment charges and not for ad valorem property taxes. Our office explained that the property tax bill is a mechanism to collect more than ad-valorem property taxes, that Mello-Roos or community facilities district bonds are specific to the replacement property's location in a newer development, and that his prior home did not have any Mello-Roos charges. We helped the taxpayer understand that the factored base year value from the original home is what transfers and not the amount of taxes paid from the original property's property tax bill. Additionally, we helped the taxpayer understand that the total ad valorem property tax rate above the statewide 1 percent varies depending on local voter-approved bonded indebtedness and that special assessment or direct levy charges vary by area.

**Summary—Services Provided.** The TRA Office's understanding of base year value transfer laws allows them to help the taxpayer understand what amount transfers to a replacement property. The TRA Office's understanding of the contents of a property tax bill allows them to explain the components in terms that can be easily understood by taxpayers.

### ***Some transfers of real property between unrelated persons may be excluded from reassessment if they lived together before one person dies***

**Background.** A change in ownership of real property, unless qualified for an exclusion, results in the property being reassessed to market value as of the date of change in ownership. In the case where two married people own a home, and one spouse dies, no change in ownership for property tax purposes occurs because interspousal transfers are not subject to reassessment. However, if two unmarried people own a home and they live in it together (referred to herein as co-tenants), and one of them dies with the interest of the decedent going to the other person, then the percentage interest transferred is subject to reassessment at market value as of the date of death. This can cause the assessment for property tax purposes, as well as the property taxes, to increase substantially. However, if certain requirements are met, a co-tenancy exclusion under R&TC section 62.3 can prevent the property from being reassessed.

**Issue.** A taxpayer received a supplemental assessment and did not understand the reason for the increased assessment because she said she had owned the property and lived there for over two decades. The taxpayer was concerned because she was told it could take up to a year or so to process an appeal and meanwhile, she could not afford the new property taxes.

**Resolution.** The TRA Office spoke with the taxpayer and asked if any other persons were on title to the home since she purchased it to determine if that may have caused reassessment of the property. The taxpayer explained she originally purchased the home with her former husband and has lived in it for over 20 years. Later, she added her boyfriend on title to help pay the mortgage, and they had refinanced the property a few times before he died. The TRA Office coordinated with the Assessor's office to find out why her home was reassessed and to obtain the property's ownership history. Our office reviewed the information and discovered after the taxpayer's former husband transferred his 50 percent ownership to the taxpayer as part of a divorce decree, there were several transfers among the taxpayer and the taxpayer's boyfriend over the years. The most recent ownership of the property, before the boyfriend died, was held by the taxpayer in joint tenancy with the decedent; however, prior to that the boyfriend was on title as sole owner after multiple refinancing efforts. The TRA Office explained to the taxpayer that the death of one joint tenant generally results in a change in ownership of the interest transferred unless an exclusion from reassessment applies. If the taxpayer and decedent had been married or were registered domestic partners, then the transfer would be excluded from reassessment as interspousal. Since the taxpayer indicated she had lived with her boyfriend for many years and the deed evidenced they held the property as joint tenants, the TRA Office analyzed whether the transaction could qualify for the co-tenancy exclusion. The TRA Office explained to the taxpayer that if they owned the home together with no other person on the title, and both lived in the home together as their primary residence for at least one year before her boyfriend's death, it appeared that the transfer of his 50 percent interest to her as of the date of death should qualify for the co-tenancy exclusion under R&TC section 62.3. Our agency's Property Tax Rule 462.040 (b)(6) clarifies the exclusion and requirements. Our office provided the taxpayer a copy of the claim form, BOE-58-H, *Affidavit of Cotenant Residency*, that we obtained from the Assessor's office and suggested she complete and submit it to the Assessor's office.

**Summary—Services Provided.** The TRA Office's knowledge of change in ownership laws and exclusion laws allow them to explain to taxpayers the reason property was reassessed and inform them about claim forms that can be filed with a county Assessor's office to receive an exclusion from reassessment.

## ISSUE RESOLUTION

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The two primary functions of the TRA Office are to ensure fair and equitable treatment of taxpayers in the assessment and collection of property taxes and to recommend changes in policies, procedures, and laws to improve and ease taxpayer compliance. As a result of specific contacts from taxpayers, issues raised at annual Taxpayers' Bill of Rights hearings, suggestions received from BOE staff and other agencies, and issues identified by the TRA Office staff, the issues are resolved with the appropriate department or departments.

The following project was initiated to resolve issues brought to the attention of the TRA Office that resulted in changes being implemented or in progress.

### **Solar Energy New Construction Exclusion**

As a result of contacts made to the TRA Office by a taxpayer representative, the BOE's Property Tax Department initiated an interested parties process to address issues that emerged since the November 2012 release of BOE's *Guidelines for Active Solar Energy Systems New Construction Exclusion*. The project, referred to as the Solar Energy Systems New Construction Exclusion, began in fiscal year 2018-19, and is separated into phases; refer to LTA 2018/047 for discussion of the project. As part of the project, a proposed new property statement reporting form for reporting solar energy power plant equipment to a county Assessor's Office was drafted and distributed to interested parties for review in November 2019, with interested parties providing comments in January 2020; refer to LTA 2019/035, dated November 13, 2019. As a result of the passage of Proposition 19 and due to the substantial workload associated with its implementation, work was suspended on this project. The Property Tax Department will consider working on this project in the future along with their other projects.

# TAXPAYER SERVICE IMPROVEMENTS

## IMPROVEMENTS BY TRA OFFICE

### Educating the Public

The TRA Office, under the Morgan Property Taxpayers' Bill of Rights, has an educational role in providing information to taxpayers to assist County Assessors in their efforts to provide education to taxpayers. The TRA Office is committed to education and outreach to help taxpayers understand property tax laws, and to increase their awareness of property tax savings that may be available to them.

*Information Sheets* address a specific topic geared to help taxpayers understand each topic. Each topic includes basic information on the purpose of the exemption or exclusion, main requirements, how to apply, helpful hints, and where to find additional information. The *Information Sheets* are posted to the BOE's website and accessed through the TRA page at [www.boe.ca.gov/tra](http://www.boe.ca.gov/tra), under the selection for *Taxpayer Education*.

*Information Sheets* published during the fiscal year of this report are:

- *Information Sheet, Property Tax Savings: Transfer of Property Tax Base to Replacement Property—Disabled Persons (Publication 800-4)* Published August 2022
- *Information Sheet, Property Tax Savings: Transfer of Property Tax Base to Replacement Property—Disabled Persons Occurring On or Before March 31, 2021 (Publication 800-4a)* Published August 2022
- *Information Sheet, Property Tax Assistance Programs for Seniors (Publication 800-5)* Published February 2023
- *Information Sheet, Property Tax Savings: Homeowners' Exemption (Publication 800-6)* Published June 2023
- *Information Sheet, Property Tax Savings: Disabled Veterans' Exemption (Publication 800-7)* Published June 2023

*Information Sheets* are posted to the agency's website and can be accessed through the Taxpayers' Rights Advocate page at [www.boe.ca.gov/tra/infosheets.htm](http://www.boe.ca.gov/tra/infosheets.htm) under the *Taxpayer Education* area.

As of fiscal year-end 2022-23, the TRA Office has published *Information Sheets* covering Proposition 19's intergenerational transfer provisions for transfers between parents and children and grandparents and grandchildren as well as Proposition 19's base year value transfer provisions for persons age 55 and over and disabled persons of any age.

The TRA Office continues to work on developing *Information Sheets* on other topics to help taxpayers understand the area of property taxation and exclusions and exemptions available to them that could result in property tax savings. The TRA Office will also revise existing *Information Sheets* in the future, as necessary, to reflect statutory or regulatory changes or published guidance.

## Ease of Access to Information

The TRA Office is committed to ensuring that the public has access to information when they need it. The TRA Office continually examines our agency's website and coordinates with the BOE's Property Tax Department to update information on our agency's website, to ensure comprehensive information is available on various topics and can be easily accessed.

### **Proposition 19 Information**

During fiscal year 2021-22, the year prior to this report, significant agency staff time was devoted to work pertaining to Proposition 19, a constitutional amendment approved by the California voters on November 3, 2020. Proposition 19 (Assembly Constitutional Amendment 11, Stats. 2020, res. ch. 31) added sections 2.1, 2.2, and 2.3 to Article XIII A of the California Constitution. Our agency created a webpage for Proposition 19, *The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act*, to assist taxpayers with information on Proposition 19. Proposition 19's implementing legislation, Senate Bill 539 (Stats. 2021, ch. 427) that was passed and signed by the Governor on September 30, 2021, added sections 63.2 and 69.6 to the R&TC. Guidance and information disseminated on Proposition 19 and its implementing legislation is posted to our agency's website in several categories (*Introduction, Comparison Charts, Guidance Issued/Rulemaking, Frequently Asked Questions, Related Legislation, and Additional Resources*). In 2022-23, work continued in the regulatory area in promulgating property tax rules to clarify, interpret, and make specific the administration of the provisions of R&TC sections 62.3 and 69.6, as well as form revisions.

The TRA Office reviewed the material issued by our agency throughout the fiscal year of this report, fiscal year 2022-23. The TRA Office believes our agency's webpage with information concerning Proposition 19 is comprehensive and gives taxpayers easy access to the applicable statutory laws, as well as property tax rules and guidance. The TRA Office believes such information is responsive to the needs of taxpayers and Assessors.

The Property Tax Department issued the following Letters to Assessors (LTA) in this area during fiscal year 2022-23:

- LTA 2022/025, *Revised Proposition 19 Forms*, dated July 5, 2022

The LTA provided notice that nine Board-prescribed forms were revised to make them consistent with the provisions of R&TC sections 63.2 and 69.6 that resulted from the passage of Senate Bill 539, Proposition 19's implementing legislation.

- LTA 2022/035, *California Code of Regulations Title 18, Public Revenues, Emergency Action Property Tax Rule 462.520 and Rule 462.540*, dated July 22, 2022

This LTA provided notice that the Office of Administrative Law approved Property Tax Rule 462.520, *Exclusion from Change in Ownership—Intergenerational Transfers*, and Rule 462.540, *Change in Ownership—Base Year Value Transfers*, which were adopted by the Board as an emergency regulation. The amendments became effective on July 18, 2022, and expire on January 18, 2023. A copy of the rules was enclosed with the LTA.



- LTA 2022/037, *Property Tax Rules 462.520 and 462.540*, dated July 25, 2022

The LTA provided notice that BOE staff initiated the regular rulemaking process to make the emergency amendments for Property Tax Rule 462.520, *Exclusion from Change in Ownership—Intergenerational Transfers* and Property Tax Rule 462.540, *Change in Ownership—Base Year Value Transfers* permanent. The LTA invited interested parties to participate in the rulemaking process and provide comments on the rule language.

- LTA 2022/045, *Notice of Publication of Notice of Proposed Regulatory Action for California Code of Regulations, Title 18, Section 462.520, Exclusion from Change in Ownership—Intergenerational Transfers*, dated September 30, 2022

The LTA provided notice regarding amendments to Property Tax Rule 462.520 and of a public hearing on the proposed regulatory action at the Board's November 17-18, 2022, meeting. The LTA invited interested parties to submit comments regarding the proposed rule amendments.

- LTA 2022/046, *Notice of Publication of Notice of Proposed Regulatory Action For California Code of Regulations, Title 18, Section 462.540, Change in Ownership—Base Year Value Transfers*, dated September 30, 2022

The LTA provided notice regarding amendments to Property Tax Rule 462.540 and of a public hearing on the proposed regulatory action at the Board's November 17-18, 2022, meeting. The LTA invited interested parties to submit comments regarding the proposed rule amendments.

- LTA 2023/006, *15-Day Notice of Public Availability of Underline and Strikeout Text for The State Board of Equalization Proposal to Amend California Code of Regulations, Title 18, Section 462.540, Change in Ownership—Base Year Value Transfers*, dated February 3, 2023

The LTA provided a 15-day notice for additional public comment on the amendments made to Property Tax Rule 462.540, which were substantively identical to the amendments previously published and submitted for public comment on September 30, 2022, and adopted by the Board on November 17, 2022. The LTA provided the additional 15-day notice because a hardcopy version of the rule text included with the Notice of Proposed Regulatory Action did not reflect the original emergency amendments as well as the additional amendments in underline and strikeout format. Additionally, the LTA specified that documents and other information on which the agency has relied upon in adopting the proposed regulations have been added to the rulemaking file and are available for public inspection and comment.

- LTA 2023/009, *California Code of Regulations, Title 18, Property Tax Rules 462.520 and 462.540 Emergency Action*, dated February 21, 2023

The LTA announced that the BOE readopted Property Tax Rules 462.520, *Exclusion from Change in Ownership—Intergenerational Transfers*, and 462.540, *Change in Ownership—Base Year Value Transfers*, as emergency actions and were approved by the Office of Administrative Law. The LTA indicated that the readopted amendment would expire on April 19, 2023.

- LTA 2023/012, *Intergenerational Transfer Exclusion, Adjustment of the \$1 Million Amount*, dated March 7, 2023

The LTA provided that the biennial adjustment of the \$1 million that is added to a property's factored base year value to determine the value cap for the Intergenerational Transfer Exclusion under section 2.1(c) of Article XIII A of the California Constitution and R&TC section 63.2 was an increase of 2.26 percent. Thus, for transfers that occur February 16, 2023, through February 15, 2025, the value cap will be the sum of the property's factored base year value plus \$1,022,600.

- LTA 2023/018, *California Code of Regulations, Title 18, Public Revenues Property Tax Rules 462.520 and 462.540*, dated June 1, 2023

The LTA announced that the emergency amendments to Property Tax Rule 462.520 and Rule 462.540 made through the certificate of compliance rulemaking process were adopted by the BOE on November 17, 2022. The Office of Administrative Law approved the certificates of compliance, and the final amendments to both Rules became effective on April 18, 2023. Copies of the final amended Rules were enclosed with the LTA.

- LTA 2023/027, *Taxpayers' Rights Advocate Office Information Sheets on Property Tax Savings – Homeowners' Exemption and Disabled Veterans' Exemption*, dated July 19, 2023

Although this LTA was issued beyond the fiscal year of this report, it is listed because the *Information Sheets* announced in the LTA were published in June 2023 during fiscal year 2022-23. The LTA announced the issuance of *Information Sheets for the Homeowners' Exemption and Disabled Veterans' Exemption*. The LTA discussed that as part of the TRA Office's educational role in providing information to taxpayers, these two additional *Information Sheets* were published and are available on the TRA's webpage. The two new *Information Sheets* were enclosed with the LTA.

The TRA Office believes all the information disseminated concerning Proposition 19 and its effects has been comprehensive and responsive to the needs of taxpayers and County Assessor's offices.

## Forms Review

As part of the TRA's role under R&TC section 5906, the TRA Office periodically reviews property tax statements and other property tax forms prescribed by our agency to determine if the forms and instructions promote or discourage taxpayer compliance and if the content and language in the form are necessary and germane to the assessment function. As a result of working with taxpayers, the TRA Office becomes aware of changes that are needed to a form, either the form itself or the form instructions.

Following the passage of Senate Bill 539 that implemented the provisions of Proposition 19 intergenerational exclusion and base year value transfers in fiscal year 2021-22, our agency, in consultation with the California Assessors' Association, revised nine Board-prescribed forms to make them consistent with the provisions of R&TC sections 63.2 and 69.6. After adoption by our agency's elected Board, LTA 2022/025, dated July 5, 2022, announced the adoption of the revised forms providing sample copies. Revisions to three of the Proposition 19 forms were made in FY 2022-23. The form revisions were adopted by our agency's elected Board at a public meeting held on May 23, 2023, with each of the form changes identified as part of the public agenda notice for the meeting. BOE-19-G, *Claim for Reassessment Exclusion for Transfer Between Grandparent and Grandchild Occurring on or After February 16, 2021*, and BOE-19-P, *Claim for Reassessment Exclusion for Transfer Between Parent and Child Occurring on or After February 16, 2021*, were revised to make them consistent with the changes to Property Tax Rule 462.520 regarding prospective relief for late-filed homeowners' or disabled veterans' exemption claims. Additionally, BOE-19-G and BOE-19-P were revised to add language that the \$1 million added to the property's factored base year value to calculate the value cap of exclusion is adjusted every other year by the percentage change in the Housing Price Index for California for the previous year. The TRA Office reviewed these forms during the 2022-23 revision process and provided feedback.

The revisions to BOE-19-G and BOE-19-P are helpful to taxpayers so they understand the exclusion and property tax relief may still be available even if they did not file the homeowners' exemption or disabled veterans' exemption within one year of the property's transfer. Another form revision adopted on May 23, 2023, that the TRA Office found helpful to taxpayers is BOE-67-A, *Notice of Supplemental Assessment*. This form was revised to add language that taxpayers may call the specific phone number identified if they have any questions about their supplemental assessment.

The TRA Office believes other form revisions made in the 2022-23 fiscal year will facilitate ease and clarity for taxpayers to complete.

# APPENDIX

## APPENDIX 1

### THE MORGAN PROPERTY TAXPAYERS' BILL OF RIGHTS

(Revenue and Taxation Code Sections)

**5900. Title.** This part shall be known and may be cited as “The Morgan Property Taxpayers’ Bill of Rights.”

**5901. Findings and declarations.** The Legislature finds and declares as follows:

- (a) Taxes are a sensitive point of contact between citizens and their government, and disputes and disagreements often arise as a result of misunderstandings or miscommunications.
- (b) The dissemination of information to taxpayers regarding property taxes and the promotion of enhanced understanding regarding the property tax system will improve the relationship between taxpayers and the government.
- (c) The proper assessment and collection of property taxes is essential to local government and the health and welfare of the citizens of this state.
- (d) It is the intent of the Legislature to promote the proper assessment and collection of property taxes throughout this state by advancing, to the extent feasible, uniform practices of property tax appraisal and assessment.

**5902. Administration.** This part shall be administered by the board.

**5903. “Advocate.”** “Advocate” as used in this part means the “Property Taxpayers’ Advocate” designated pursuant to section 5904.

**5904. Property Taxpayers’ Advocate; responsibilities.**

- (a) The board shall designate a “Property Taxpayers’ Advocate.” The advocate shall be responsible for reviewing the adequacy of procedures for both of the following:
  - (1) The distribution of information regarding property tax assessment matters between and among the board, assessors, and taxpayers.
  - (2) The prompt resolution of board, assessor, and taxpayer inquiries, and taxpayer complaints and problems.
- (b) The advocate shall be designated by, and report directly to, the executive officer of the board. The advocate shall at least annually report to the executive officer on the adequacy of existing procedures, or the need for additional or revised procedures, to accomplish the objectives of this part.
- (c) Nothing in this part shall be construed to require the board to reassign property tax program responsibilities within its existing organizational structure.

**5905. Additional duties.** In addition to any other duties imposed by this part, the advocate shall periodically review and report on the adequacy of existing procedures, or the need for additional or revised procedures, with respect to the following:

- (a) The development and implementation of educational and informational programs on property tax assessment matters for the benefit of the board and its staff, assessors and their staff, local boards of equalization and assessment appeals boards, and taxpayers.
- (b) The development and availability of property tax informational pamphlets and other written materials that explain, in simple and nontechnical language, all of the following matters:
  - (1) Taxation of real and personal property in California.
  - (2) Property tax exemptions.
  - (3) Supplemental assessments.
  - (4) Escape assessments.
  - (5) Assessment procedures.
  - (6) Taxpayer obligations, responsibilities, and rights.
  - (7) Obligations, responsibilities, and rights of property tax authorities, including, but not limited to, the board and assessors.
  - (8) Property tax appeal procedures.

**5906. Additional duties.**

- (a) The advocate shall undertake, to the extent not duplicative of existing programs, periodic review of property tax statements and other property tax forms prescribed by the board to determine both of the following:
  - (1) Whether the forms and their instructions promote or discourage taxpayer compliance.
  - (2) Whether the forms or questions therein are necessary and germane to the assessment function.
- (b) The advocate shall undertake the review of taxpayer complaints and identify areas of recurrent conflict between taxpayers and assessment officers. This review shall include, but not be limited to, all of the following:
  - (1) The adequacy and timeliness of board and assessor responses to taxpayers' written complaints and requests for information.
  - (2) The adequacy and timeliness of corrections of the assessment roll, cancellations of taxes, or issuances of refunds after taxpayers have provided legitimate and adequate information demonstrating the propriety of the corrections, cancellations, or refunds, including, but not limited to, the filing of documents required by law to claim these corrections, cancellations, or refunds.
  - (3) The timeliness, fairness, and accessibility of hearings and decisions by the board, county boards of equalization, or assessment appeals boards where taxpayers have filed timely applications for assessment appeal.
  - (4) The application of penalties and interest to property tax assessments or property tax bills where the penalty or interest is a direct result of the assessor's failure to request specified information or a particular method of reporting information, or where the penalty or interest is a direct result of the taxpayer's good faith reliance on written advice provided by the assessor or the board.



- (c) Nothing in this section shall be construed to modify any other provision of law or the California Code of Regulations regarding requirements or limitations with respect to the correction of the assessment roll, the cancellation of taxes, the issuance of refunds, or the imposition of penalties or interest.
- (d) The board shall annually conduct a public hearing, soliciting the input of assessors, other local agency representatives, and taxpayers, to address the advocate's annual report pursuant to section 5904, and to identify means to correct any problems identified in that report.

**5907. Employee evaluations.** No state or local officer or employees responsible for the appraisal or assessment of property shall be evaluated based solely upon the dollar value of assessments enrolled or property taxes collected. However, nothing in this section shall be construed to prevent an official or employee from being evaluated based upon the propriety and application of the methodology used in arriving at a value determination.

**5908. Educational assistance.** Upon request of a County Assessor or assessors, the advocate, in conjunction with any other programs of the board, shall assist assessors in their efforts to provide education and instruction to their staffs and local taxpayers for purposes of promoting taxpayer understanding and compliance with the property tax laws, and, to the extent feasible, statewide uniformity in the application of property tax laws.

**5909. Written rulings.**

- (a) County Assessors may respond to a taxpayer's written request for a written ruling as to property tax consequences of an actual or planned particular transaction, or as to the property taxes liability of a specified property. For purposes of statewide uniformity, County Assessors may consult with board staff prior to issuing a ruling under this subdivision. Any ruling issued under this subdivision shall notify the taxpayer that the ruling represents the county's current interpretation of applicable law and does not bind the county, except as provided in subdivision (b).
- (b) Where a taxpayer's failure to timely report information or pay amounts of tax directly results from the taxpayer's reasonable reliance on the County Assessor's written ruling under subdivision (a), the taxpayer shall be relieved of any penalties, or interest assessed or accrued, with respect to property taxes not timely paid as a direct result of the taxpayer's reasonable reliance. A taxpayer's failure to timely report property values or to make a timely payment of property taxes shall be considered to directly result from the taxpayer's reasonable reliance on a written ruling from the assessor under subdivision (a) only if all of the following conditions are met:
  - (1) The taxpayer has requested in writing that the assessor advise as to the property tax consequences of a particular transaction or as to the property taxes with respect to a particular property, and fully described all relevant facts and circumstances pertaining to that transaction or property.
  - (2) The assessor has responded in writing and specifically stated the property tax consequences of the transaction or the property taxes with respect to the property.

**5910. Report to board.** The advocate shall, on or before January 1, 1994, make specific recommendations to the board with respect to standardizing interest rates applicable to escape assessments and refunds of property taxes, and statutes of limitations, so as to place property taxpayers on an equal basis with taxing authorities.

**5911. Legislative intent.** It is the intent of the Legislature in enacting this part to ensure that:

- (a) Taxpayers are provided fair and understandable explanations of their rights and duties with respect to property taxation, prompt resolution of legitimate questions and appeals regarding their property taxes, and prompt corrections when errors have occurred in property tax assessments.
- (b) The board designate a taxpayer's advocate position independent of, but not duplicative of, the board's existing property tax programs, to be specifically responsible for reviewing property tax matters from the viewpoint of the taxpayer, and to review and report on, and to recommend to the board's executive officer any necessary changes with respect to, property tax matters as described in this part.

## APPENDIX 2

### THE CALIFORNIA TAXPAYERS' BILL OF RIGHTS

Excerpts pertaining to the Alcoholic Beverage Tax  
(Revenue and Taxation Code section 32460 – 32476,  
from Article 2 of Chapter 9 of Part 14. Alcoholic Beverage Tax)  
(Article 2 added by Stats. 1992, Ch. 438, Sec. 8. Effective January 1, 1993.)

#### **32460.**

The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

#### **32461.**

- (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.
- (b) The advocate shall report directly to the executive officer of the board.

#### **32462.**

- (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:
  - (1) Taxpayers newly registered with the board.
  - (2) Board audit and compliance staff.
- (b) The education and information program shall include all of the following:
  - (1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.
  - (2) Participation in seminars and similar programs organized by federal, state, and local agencies.
  - (3) Revision of taxpayer educational materials currently produced by the board that explain the most common areas of taxpayer nonconformance in simplified terms.
  - (4) Implementation of a continuing education program for audit and compliance personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
- (c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

**32463.**

The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Alcoholic Beverage Tax Law which may further improve voluntary compliance and the relationship between taxpayers and government.

**32464.**

The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

**32465.**

- (a) The total amount of revenue collected or assessed pursuant to this part shall not be used for any of the following:
  - (1) To evaluate individual officers or employees.
  - (2) To impose or suggest production quotas or goals, other than quotas or goals with respect to accounts receivable.
- (b) The board shall certify in its annual report submitted pursuant to section 15616 of the Government Code that revenue collected or assessed is not used in a manner prohibited by subdivision (a).
- (c) Nothing in this section shall prohibit the setting of goals and the evaluation of performance with respect to productivity and the efficient use of time.

**32466.**

The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

**32467.**

The board shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases that take more time than the appropriate standard timeframe.

**32468.**

Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

- (a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.
- (b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.
- (c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

**32469.**

- (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:
  - (1) The taxpayer files a claim for the fee and expenses with the board within one year of the date the decision of the board becomes final.
  - (2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.
  - (3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, in an amount determined by the board in its sole discretion.
- (b) To determine whether the board staff has been unreasonable, the board shall consider whether the board staff has established that its position was substantially justified.
- (c) The amount of reimbursed fees and expenses shall be limited to the following:
  - (1) Fees and expenses incurred after the date of the notice of determination, jeopardy determination, or a claim for refund.
  - (2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.
- (d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.
- (e) The amendments to this section by the act adding this subdivision shall be operative for claims filed on or after January 1, 2000.

**32470.**

- (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.
- (b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.
- (c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.
- (d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include alcoholic beverage tax violations.
- (e) For the purposes of this section:
  - (1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.
  - (2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

**32471.**

- (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.
- (b)
- (1) Except as provided in paragraph (3) and subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any civil tax matter in dispute.
  - (2) No recommendation of settlement shall be submitted to the board, itself, unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, itself, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.
  - (3) A settlement of any civil tax matter in dispute involving a reduction of tax or penalties in settlement, the total of which reduction of tax and penalties in settlement does not exceed five thousand dollars (\$5,000), may be approved by the executive director and chief counsel, jointly. The executive director shall notify the board, itself, of any settlement approved pursuant to this paragraph.
- (c) Whenever a reduction of tax, or penalties, or total tax and penalties in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:
- (1) The name or names of the taxpayers who are parties to the settlement.
  - (2) The total amount in dispute.
  - (3) The amount agreed to pursuant to the settlement.
  - (4) A summary of the reasons why the settlement is in the best interests of the State of California.
  - (5) For any settlement approved by the board, itself, the Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.
- The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.
- (d) The members of the State Board of Equalization shall not participate in the settlement of tax matters pursuant to this section, except as provided in subdivision (e).



- (e)
  - (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board, itself, within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.
  - (2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.
- (f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.
- (g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement considered or entered into pursuant to this section shall constitute confidential tax information for purposes of section 32455.
- (h) This section shall apply only to civil tax matters in dispute on or after the effective date of the act adding this subdivision.
- (i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

#### **32471.5.**

- (a) The executive director and chief counsel of the board, or their delegates, may compromise any final tax liability pursuant to this section.
- (b) For purposes of this section, the following definitions apply:
  - (1) "Board" means the State board of Equalization or its delegates.
  - (2) "Delegates" includes the California Department of Tax and Fee Administration.
  - (3) "A final tax liability" means any final tax liability arising under Part 14 (commencing with section 32001), or related interest, additions to tax, penalties, or other amounts assessed under this part.

- (c)
  - (1) Offers in compromise shall be considered only for liabilities that were generated by a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.
  - (2) Notwithstanding paragraph (1), a qualified final tax liability may be compromised regardless of whether the business has been discontinued or transferred or whether the taxpayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final tax liability shall also apply to a qualified final tax liability, and a compromise shall not be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a “qualified final tax liability” means that part of a final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the taxpayer collected reimbursement or tax reimbursement from the purchaser or other person and which was determined against the taxpayer under Article 2 (commencing with section 32271), Article 3 (commencing with section 32291), or Article 4 (commencing with section 32301) of Chapter 6.
  - (3) A qualified final tax liability may not be compromised with any of the following:
    - (A) A taxpayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the taxpayer is making the offer.
    - (B) A business that was transferred by a taxpayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer’s liability was previously compromised.
    - (C) A business in which a taxpayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the taxpayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer’s liability was previously compromised.
- (d) The board may, in its discretion, enter into a written agreement which permits the taxpayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that such installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.
- (e) The members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.

- (f) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the taxpayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining “sufficient annual income” for purposes of this subdivision.
- (g) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required tax returns and reports for a five-year period from the date the liability is compromised, or until the taxpayer is no longer required to file tax returns and reports, whichever period is earlier.
- (h) Offers in compromise shall not be considered where the taxpayer has been convicted of felony tax evasion under this part during the liability period.
- (i) For amounts to be compromised under this section, the following conditions shall exist:
  - (1) The taxpayer shall establish that:
    - (A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer’s present assets or income.
    - (B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.
  - (2) The board shall have determined that acceptance of the compromise is in the best interest of the state.
- (j) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.
- (k)
  - (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid tax and fraud or evasion penalty.
  - (2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.
- (l) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.
- (m) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor’s liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.

- (n) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for at least one year in the office of the board a public record with respect to that compromise. The public record shall include all of the following information:
- (1) The name of the taxpayer.
  - (2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
  - (3) The amount offered.
  - (4) A summary of the reason why the compromise is in the best interest of the state.
- The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of section 32455. A list shall not be prepared and releases shall not be distributed by the board in connection with these statements.
- (o) A compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:
- (1) The board determines that a person did any of the following acts regarding the making of the offer:
    - (A) Concealed from the board property belonging to the estate of a taxpayer or other person liable for the tax.
    - (B) Received, withheld, destroyed, mutilated, or falsified a book, document, or record or made a false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.
  - (2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.
- (p) A person who, in connection with an offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned pursuant to subdivision (h) of section 1170 of the Penal Code, or both, together with the costs of investigation and prosecution:
- (1) Conceals from an officer or employee of this state property belonging to the estate of a taxpayer or other person liable in respect of the tax.
  - (2) Receives, withholds, destroys, mutilates, or falsifies a book, document, or record, or makes a false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.
- (q) For purposes of this section, "person" means the taxpayer, a member of the taxpayer's family, a corporation, agent, fiduciary, or representative of, or another individual or entity acting on behalf of, the taxpayer, or another corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.
- (r) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

**32471.5.**

- (a) The executive director and chief counsel of the board, or their delegates, may compromise any final tax liability pursuant to this section.
- (b) For purposes of this section the following definitions apply:
  - (1) “Board” means the State Board of Equalization or its delegates.
  - (2) “Delegates” includes the California Department of Tax and Fee Administration.
  - (3) “A final tax liability” means any final tax liability arising under Part 14 (commencing with Section 32001), or related interest, additions to tax, penalties, or other amounts assessed under this part.
- (c) Offers in compromise shall be considered only for liabilities that were generated by a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.
- (d) Offers in compromise shall not be considered where the taxpayer has been convicted of felony tax evasion under this part during the liability period.
- (e) For amounts to be compromised under this section, the following conditions shall exist:
  - (1) The taxpayer shall establish that:
    - (A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer’s present assets or income.
    - (B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.
  - (2) The board shall have determined that acceptance of the compromise is in the best interest of the state.
- (f) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.
- (g)
  - (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid tax and fraud or evasion penalty.
  - (2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.

- (h) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.
- (i) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.
- (j) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:
  - (1) The name of the taxpayer.
  - (2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
  - (3) The amount offered.
  - (4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of section 32455. A list shall not be prepared and releases shall not be distributed by the board in connection with these statements.

- (k) A compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:
  - (1) The board determines that a person did any of the following acts regarding the making of the offer:
    - (A) Concealed from the board property belonging to the estate of a taxpayer or other person liable for the tax.
    - (B) Received, withheld, destroyed, mutilated, or falsified a book, document, or record, or made a false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.
  - (2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.
- (l) A person who, in connection with an offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned pursuant to subdivision (h) of section 1170 of the Penal Code, or both, together with the costs of investigation and prosecution:
  - (1) Conceals from an officer or employee of this state property belonging to the estate of a taxpayer or other person liable in respect of the tax.



- (2) Receives, withholds, destroys, mutilates, or falsifies a book, document, or record, or makes a false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.
- (m) For purposes of this section, “person” means the taxpayer, a member of the taxpayer’s family, a corporation, agent, fiduciary, or representative of, or another individual or entity acting on behalf of, the taxpayer, or another corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.
- (n) This section shall become operative on January 1, 2028.

**32472.**

- (a) The State Board of Equalization shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.
- (b)
  - (1) (A) The Taxpayers’ Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to two thousand three hundred dollars (\$2,300) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.
  - (B) The amount the Taxpayers’ Rights Advocate may return to each taxpayer subject to a levy or notice to withhold, is limited to two thousand three hundred dollars (\$2,300), or the adjusted amount as specified in paragraph (2), in any monthly period.
  - (C) The Taxpayers’ Rights Advocate may order amounts returned in the case of a seizure of property as a result of a jeopardy determination, subject to the amounts set or adjusted pursuant to this section and if the ultimate collection of the amount due is no longer in jeopardy.
- (2) (A) The State Board of Equalization shall adjust the two-thousand-three-hundred-dollar (\$2,300) amount specified in paragraph (1) as follows:
  - (i) On or before March 1, 2016, and on or before March 1 each year thereafter, the State Board of Equalization shall multiply the amount applicable for the current fiscal year by the inflation factor adjustment calculated based on the percentage change in the Consumer Price Index, as recorded by the California Department of Industrial Relations for the most recent year available, and the formula set forth in paragraph (2) of subdivision (h) of section 17041. The resulting amount will be the applicable amount for the succeeding fiscal year only when the applicable amount computed is equal to or exceeds a new operative threshold, as defined in subparagraph (B).
  - (ii) When the applicable amount equals or exceeds an operative threshold specified in subparagraph (B), the resulting applicable amount, rounded to the nearest multiple of one hundred dollars (\$100), shall be operative for purposes of paragraph (1) beginning July 1 of the succeeding fiscal year.

- (B) For purposes of this paragraph, “operative threshold” means an amount that exceeds by at least one hundred dollars (\$100) the greater of either the amount specified in paragraph (1) or the amount computed pursuant to subparagraph (A) as the operative adjustment to the amount specified in paragraph (1).
- (c) The State Board of Equalization shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.
- (d) Except as provided in subparagraph (C) of paragraph (1) of subdivision (b), this section shall not apply to the seizure of any property as a result of a jeopardy determination.

**32472.1.**

- (a) Except in any case where the board finds collection of the tax to be in jeopardy, if any property has been levied upon, the property or the proceeds from the sale of the property shall be returned to the taxpayer if the board determines any one of the following:
  - (1) The levy on the property was not in accordance with the law.
  - (2) The taxpayer has entered into and is in compliance with an installment payment agreement pursuant to section 32389 to satisfy the tax liability for which the levy was imposed, unless that or another agreement allows for the levy.
  - (3) The return of the property will facilitate the collection of the tax liability or will be in the best interest of the state and the taxpayer.
- (b) Property returned under paragraphs (1) and (2) of subdivision (a) is subject to the provisions of section 32474.

**32473.**

Exemptions from levy under Chapter 4 (commencing with section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

**32474.**

- (a) A taxpayer may file a claim with the board for reimbursement of bank charges and any other reasonable third-party check charge fees incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action by the board. Bank and third-party charges include a financial institution’s or third party’s customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action. The charges are those paid by the taxpayer and not waived or reimbursed by the financial institution or third party. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

- (1) The erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action was caused by board error.
  - (2) Prior to the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.
- (b) Claims pursuant to this section shall be filed within 90 days from the date the bank and third-party charges were incurred by the taxpayer. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

**32475.**

- (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with section 7150) or Chapter 14.5 (commencing with section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.
- (b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 5 (commencing with section 32311) of Chapter 6.
- (c) If the board determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.
- (d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.
- (e) The board may release or subordinate a lien if the board determines that the release or subordination will facilitate the collection of the tax liability or will be in the best interest of the state and the taxpayer.

**32476.**

- (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.
- (b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:
  - (1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

- (2) Reasonable litigation costs including any of the following:
  - (A) Reasonable court costs.
  - (B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:
    - (i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.
    - (ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.
    - (iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars (\$75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.
- (c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.
- (d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars (\$10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

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# Taxpayers' Rights Advocate's

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